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STATE FOR ISN/CB, VCI/CCA, L/NPV, IO/MPR,
SECDEF FOR OSD/GSA/CN,CP>
JOINT STAFF FOR DD PMA-A FOR WTC
COMMERCE FOR BIS (ROBERTS AND DENYER)
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WINPAC FOR WALTER

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SUBJECT: CWC: WRAP-UP FOR SEPTEMBER 29 TO OCTOBER 6, 2008

REF: (A) THE HAGUE 0825 (B) THE HAGUE 0826

This is CWC-45-08

SUMMARY

¶1. (U) Budget deliberations reached a peak on October 3 when several Non-Aligned Movement (NAM) countries attacked the program plan and budget for the Office of Special Projects, specifically its mandate for counter-terrorism, non-proliferation, and outreach to other organizations. The earlier meeting (September 29) focusing on the budget for the Director General's (DG) office, the Deputy Director General's (DDG) office and the Administrative division saw far less heated discussion. The budget facilitator agreed to hold at least two more sessions in the week before the EC. The industry cluster meeting, as expected, was largely organizational, but delegations agreed to find new facilitators among the various regional groups to move discussion forward on the issues: low concentrations, Other Chemical Production Facilities (OCPF) site selection, and the Technical Secretariat's (TS) proposals on enhanced OCPF declarations.

¶2. (SBU) The Western European and Others Group (WEOG) met September 30 to discuss ongoing budget negotiations and the outlook for Executive Council (EC) 54. That same day, Delrep and UK delegate met with the Legal Advisor to discuss questions on Libya's conversion deadline (July 2008) and its documents before the EC.

¶3. (U) On October 6, the EC Chairperson held informal consultations on the preparations for EC 54. Notable among the few issues raised were Iran's objection to inclusion of the agenda item on OCPF declarations, its call for "factual corrections" to the annual EC report of activities, and its announcement that it would be submitting a "facility arrangement" for a previously agreed facility agreement. All three statements raised questions and opposition from other States Parties.

BUDGET: EXECUTIVE MANAGEMENT, ADMINISTRATION
AND MEDIUM-TERM PLAN

¶4. (U) On September 29, Martin Strub (Switzerland) held a consultation on the proposed budgets for the offices of the DG and DDG and for the Administration Division. Consideration of the budget for the Office of Special Projects (originally scheduled for September 25) was again postponed due to Krzysztof Paturej's (Director, OSP) absence; Strub announced that Paturej would present his budget immediately preceding the second wrap-up session scheduled later in the week.

¶5. (SBU) After no comments or questions on the DG's and DDG's budgets, Administration Director Ron Nelson gave a thorough overview of his budget. Some of the highlights covered staffing changes, budgeting for an external consultant on implementation of IPSAS (International Public Sector Accounting Standards), contracting out completion of long-overdue administrative directives and ending the use of external psychological assessment in the recruitment process.

¶6. (U) The DDG touched on Key Performance Indicators (KPIs), a recurring theme during budget consultations. He admitted that they need continual development and shared his expectation that the KPIs in the 2010 budget will be more in line with results-based budgeting. South Africa responded that some measure of redrafting is necessary for the 2009 budget, pointing out that the document is still a draft and that the most egregious examples of KPIs that say nothing need to be fixed.

¶7. (U) The DDG also addressed IPSAS implementation, reiterating that the OPCW's projected costs are lower than many other international organizations due in part to existing infrastructure being flexible and stable enough to meet IPSAS requirements. Nelson noted that aside from the money budgeted directly for IPSAS, indirect costs included three staff in his division who are working full-time on IPSAS implementation.

¶8. (SBU) Turning to the Mid-term Plan, Nelson briefly presented it before the facilitator opened up the floor for comments. Iran launched into the document, reiterating that it finds the prolific use of "non-proliferation" unacceptable. It stated that policies should not be resolved through the budget process and that trying to do so might hold up approval of the budget. Following Iran, discussion was dominated by India and South Africa raising editorial comments and proposed changes. The DDG responded thoroughly to the barrage of comments and said that the TS would consider them, though he noted that the document reflected the Secretariat's assessment and required no action by the EC.

INDUSTRY CLUSTER

¶9. (U) On September 29, Algerian Ambassador Benchaa Dani (EC Vice-Chairperson for Industry Cluster) chaired a primarily procedural meeting of the Industry Cluster to discuss facilitations. Amb. Dani opened the meeting by noting that there are four issues ready for discussion and asked for proposals for facilitator for each issue. The DG gave an overview of the status of the four issues and agreed with Amb. Dani that appointing facilitators would be a step forward. The four facilitations would cover:

- low concentrations of 2A/2A*;
- distribution and frequency of inspections;
- enhancing OCPF declarations; and
- OCPF site selection methodology, particularly the third criterion for the selection algorithm.

¶10. (U) The DG explained that sampling and analysis (S&A) was not included in the issue list due to its mandate in the Convention. However, he said that the TS is working on a paper on S&A, which it plans to release in late October in time for discussions in November. Germany noted that there

are still outstanding questions about S&A and that it looks forward to reviewing the paper and discussions.

¶11. (U) A number of delegations highlighted their priorities for consultations, including site selection methodology (Italy, South Africa and the UK), low concentrations (Italy and China) and OCPF declaration enhancements (South Africa). India and Germany noted that a number of the issues are inter-linked but agreed on the need to separate them to facilitate the consultation process.

¶12. (U) Dani stated his objective is to get agreement on facilitators during the EC. He asked for regional groups to provide facilitator proposals by October 10 and announced that he will convene the Industry Cluster on October 16.

WEOG

¶13. (SBU) On September 30, Ruth Surkau (Germany) chaired the weekly Western European and Others Group (WEOG) meeting. On budget negotiations, delegations held different views of the importance of the Mid-term Plan but generally agreed that the draft KPIs needed refinement to be made more concrete.

¶14. (SBU) Following the industry cluster meeting, Surkau Q14. (SBU) Following the industry cluster meeting, Surkau reported that she would be hosting a lunch for the regional group coordinators and would discuss possible facilitators for the industry issues. Diana Gosens (Netherlands) and Giuseppe Cornachia (Italy) volunteered to be facilitators, Gosens for OCPF declarations and Cornachia for low concentrations (2A/2A*). Surkau noted that the split among issues also needs to be decided -- how many facilitators are needed? The Spanish delegate, who had previously facilitated OCPF, stated that splitting the issues is the only way to make progress. Cornachia reported on the Florence Conference with UK delegate Wolstenholme. Several delegations that had not participated in the Florence meetings asked if there was a paper that could be shared. Cornachia replied that the Conference had agreed not to publish anything, as it was an informal meeting. He agreed to share a summary with WEOG members, not for broader distribution.

¶15. (U) On EC 54, delegations had little to say, noting missing documents and lack of instructions from capitals. They generally agreed that there could be an agenda fight with Iran on OCPF declarations. Germany and UK cited Libya's passing of its conversion deadline; both expected to have instructions to raise concern in the Council over the missed deadline, possibly in report language. UK delegate also raised the Russian objection at EC 53 to the Portreath facility, the first to pass the 10-year mark after conversion. Russia has not clarified its objections to the TS document but might well defer it again. Surkau asked if WEOG support would be helpful. Amb. Burkart (Germany) thought perhaps delegations could force the Russians to state their problem with the TS paper.

BUDGET: OFFICE OF SPECIAL PROJECTS

¶16. (U) On October 1, budget facilitator Martin Strub (Switzerland) held the last in his scheduled round of consultations on the budget. Having been postponed twice previously, Krzysztof Paturej (Director, Office of Special Projects) presented OSP's budget, noting that the 2009 proposal was basically the same as the 2008 budget but that some activities were modified based on the outcome of the Second Review Conference (RevCon).

¶17. (SBU) Turning to the familiar theme of KPIs, India questioned a number of OSP's KPIs and program objectives and repeatedly asked where OSP's mandate for its activities comes from. Paturej explained that OSP's planned activities for

2009 copy those already authorized in the 2008 budget but said that they were described in more detail in the 2009 budget. India also questioned OSP's interaction with stakeholders, saying that States Parties need to discuss the issue of outreach to stakeholders.

¶18. (SBU) After a brief intervention of support by France, South Africa went paragraph-by-paragraph asking for more information and clarification on OSP's activities. The U.S. and Italy both reiterated support for OPS's work but agreed that its KPIs need to be more specific and measurable. South Africa intervened for a second time, specifically raising OSP's support for the Open-ended Working Group (OEWG) on Terrorism, criticizing most of OSP's KPIs and reiterating India's comments on interacting with stakeholders.

¶19. (SBU) Despite Paturej's attempts to answer questions and his acknowledgement that OSP's KPIs need to be shortened and made more specific, Iran launched its attack noting that it shared South Africa's concerns and that it was not satisfied with Paturej's responses. Iran stated it did not agree with Qwith Paturej's responses. Iran stated it did not agree with OSP's focus on non-proliferation and counter-terrorism and said that OSP should focus on other activities, suggesting disarmament as an option. Noting that the Second RevCon had not been able to resolve disagreement over UNSCR 1540, Iran said that OSP was not in a position to do so. At the end of its intervention, Iran noted that it had too many points to raise and would save the rest for "informal informals."

BUDGET: SECOND WRAP-UP SESSION

¶20. (U) Following discussion of OSP's budget on September 29, budget facilitator Martin Strub (Switzerland) held his second wrap-up consultation to discuss outstanding issues on the entire draft 2009 budget. Strub stated his intention to hold consultations throughout the week prior to EC 54 and introduced a paper prepared by the TS in response to questions raised during previous budget consultations. The DDG noted that the TS is working on a corrigendum that will cover all corrections and will be released prior to EC 54. France, the U.S. the Netherlands, South Africa and the UK all expressed their support for the revised KPIs for the Policy-making Organs (PMO) in the TS's paper; however, all three said that the revised KPIs for International Cooperation and Assistance (ICA) still focused on measuring States Parties' performance rather than ICA's. Japan also addressed KPIs, stating that they need to be as measurable and concrete as possible and noted that the KPIs for both ICA and OSP need to be improved.

¶21. (U) After a discussion on how best to formulate KPIs, the DDG said that KPIs are important for the annual performance report and that they are refined over time. Noting that it had been shared with the Advisory Body on Administrative and Financial Matters (ABAF), Delrep asked when the performance report would be released for general circulation; the DDG responded that it would be circulated soon. The Netherlands, the UK and India all supported having an external audit of the Office of Internal Oversight (OIO), and the DDG responded the TS would try to do so within the proposed budget for ¶2009. South Africa noted its desire for a plan for future audits/reviews of OIO beyond the first one planned for 2009.

UK/U.S. MEETING WITH OPCW LEGAL ADVISER ONATE

¶22. (SBU) On September 30, Delrep and UK delegate Karen Wolstenholme met with OPCW Legal Adviser Santiago Onate to discuss possible outcomes of an EC discussion of the fact that Libya has missed its conversion deadline, and the TS approach to Libya's request to retain the protective berm at the Rabta former CWPFF. On the conversion deadline, UK Rep Wolstenholme noted that London still feels that a CSP decision establishing a new deadline might be the best

approach, and that Germany had recently raised the topic as well. Onate agreed that the situation has changed since the last meeting, in that Libya has actually missed its deadline, and said the DG would mention this in his statement to EC-54.

¶23. (SBU) Onate recalled that the precedent set by Russia and India missing their conversion deadlines has essentially been inaction on the part of the Council. He also noted that an overzealous approach to highlighting Libya's missed deadline, and establishing a new deadline through a decision, could easily become complicated by concerns about this setting a precedent for modifying deadlines (specifically 2012). He did, however, offer that he could legally support the UK assertion that the Conference does have the authority to establish a new deadline, provided it remains within the six years from entry into force of the CWC for Libya. Onate cautioned that any such approach could engender resistance on the part of Russia and India, who have no vested interest in the part of Russia and India, who have no vested interest in additional Council/Conference attention on missed conversion deadlines.

¶24. (SBU) Onate, Delrep and Wolstenholme also discussed the fact that language from Article VIII (paragraph 36) had been used in report language to address Albania's destruction delays, another case of delays in which the Convention did not provide for an extension request. Wolstenholme suggested that, at a minimum, the UK and U.S. should consider acceptable report language in case the topic is raised. Delrep suggested that the essential elements of report language might be to express concern at the missed deadline, recall the Libyan national paper on the subject from 2007, and urge Libya to complete conversion without delay, but in no case later than the six years established in the technical change made when Libya joined the Convention. Delrep reminded the UK that this would be a fall-back position, and that the U.S. preference would be not to raise the issue.

¶25. (SBU) Delrep also explained U.S. concerns at the proposed "low key" Secretariat approach to removing the protective berm at Rabta from the list of specialized features to be destroyed, specifically that this could be perceived as a lack of transparency. Delrep asked what the legal basis was for this approach, as a change of this sort is unprecedented. Onate seemed unaware that the Secretariat intended to publish the change with other changes to the plan, and without an accompanying explanation. He agreed that a Secretariat technical assessment would be useful in giving States Parties the appropriate level of confidence in the change, and will speak to Secretariat colleagues about the matter.

Chairperson's Informals on Status of EC Preparations

¶26. (U) On Monday, October 6, EC Chairperson Oksana Tomova (Slovakia) chaired the preparatory informals for EC 54. Tomova began the meeting with the TS request to defer agenda item 9(g) Transfer Agreement between the OPCW Provident Fund and the United Nations Joint Staff Pension Fund. No delegations commented and the agenda item was deferred to the next Executive Council. In her trademark brisk style, Tomova then began an item-by-item review of the agenda. The majority of items received no comments.

¶27. (U) Iran noted that it would be submitting a "facility arrangement" to replace a previously approved facility agreement, to be added to agenda item 5 Facility Agreements. The U.S., France and Costa Rica inquired as to what this submission entailed, its legal basis, and when delegations would be able to review it.

¶28. (U) For agenda item 5(1) Enhancement of OCPF declarations, Iran requested deletion of the agenda item as it has not yet been "thoroughly considered." The Director General stated that the TS had made their findings available

to the EC, as requested, and that the item should be considered. The U.S., France, Germany, Japan and Costa Rica supported inclusion of the agenda item, with several delegations urging full discussion, including facilitations on OCPF declarations. South Africa noted that, as with other items in the industry cluster, the issues need consultation, but the delegate did not express a view on deletion of the agenda item. Iran insisted that they would take it to the EC, hinting at a possible agenda fight at the beginning of the Council. Cuba recommended that delegations consult and move on.

¶29. (U) U.S. Del noted questions on the Libyan verification plan that we would be working with the Libyan delegation to resolve before the EC, as well as the expected corrigendum for the U.S. Schedule 1 facility agreement. The TS noted that the U.S. Schedule 1 document had been mis-labeled EC-53 and should be EC-54. Delrep also noted the late availability of the supplement to the 2007 Verification Implementation Report and the technical nature of its contents needing further study. There were no other comments or questions on any of these agenda items.

¶30. (U) The Japanese delegate stated that his government would be offering an amendment to the Guidelines on Voluntary Contributions.

¶31. (U) Iran stated that the Executive Council Report (agenda item 13) might require "factual corrections" without further specification. For the TS, Secretary Khodakov stated that the report is a composite of earlier reports and that any factual corrections should be reported to the TS. (Del note: At EC 53, the Iranian delegation objected to any reference to UNSCR 1540 in the DG's report of activities. We expect this intervention has a similar aim.)

¶32. (SBU) In a private conversation following this meeting, Khodakov told Delrep that he is worried about Iran initiating a lengthy fight over approving the agenda at the beginning of the EC. He said he would be meeting with the Iranian delegation but advised that "delegations" needed to speak to the Iranians as well.

¶33. (U) Javits sends.
CULBERTSON